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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,066	03/17/2000	Douglas Rugg	5544.1 413428/031	3129

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EXAMINER

GARBE, STEPHEN P

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/01/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant No.

09/527,066

Applicant(s)

RUGG, DOUGLAS

Examiner

Stephen Garbe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases, "said first end" and "said second end" in lines 13-15 and 17 are ambiguous, and, thus, render claim 1 indefinite, because two first ends and two second ends were previously recited. This rejection can be overcome by inserting "of said second strap member" after "end" in lines 14, 15, and 17.
3. Claims 2-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are indefinite for the same reason as claim 1 since they include all of its limitations.

Claim 7 is further indefinite because it depends from itself. Claims 9-17 are further indefinite for the same reason as claim 7 because they include all of its limitations.

Claim 8 is further indefinite because there is no antecedent for "said one outer pocket."

4. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite because it is unclear what is intended to be claimed in lines 14-19. Note that a first strap member is defined in lines 10-13.

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However, lines 14-19 redescribe the first strap member in different terms. Clarification is required.

5. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite because of the phrase, "said second end" in line 15. This phrase is used to describe one of the ends of the second strap member. However, "said second end" refers to the second end of the first strap member, which is the only "second end" previously recited. The second end of the second strap member cannot be the same as the second end of the first strap member. This rejection can be overcome by changing "said second end" in line 15 to "a second end." If this change is made, then "said second end" in lines 17 and 18 should be changed to "said second end of said second strap member."

6. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite for the same reason as claim 21 because it includes all of the limitations of claim 21.

7. In view of the clarification of the handle structure being claimed, and further in view of the newly discovered Branco patent, the following art rejections are deemed to be in order.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler, United States Patent No. 5,839,577 in view of Branco, United States Patent No. 5,735,608. In Figures 1 and 2, Friedler discloses a ball bag having the shape of a ball and including a handle 22 which is perpendicular to the fastening member 20. Branco discloses a bag having a carrying handle 38. See Figure 2. Branco's handle has a connecting member 42 and a first strap member, which is the portion of the handle located below connecting member 42. Branco's handle also includes a second strap member, which is the portion of the handle located above connecting member 42. The connecting member 42 and the second end of the second strap member are moveable relative to each other. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Branco's handle for Friedler's handle because they are equivalents that perform the same function. Regarding claims 4 and 6, it would have been obvious to provide Friedler's bag with the shape of any ball that it is desired to carry.

10. Claims 7, 8, 10, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler, United States Patent No. 5,839,577 in view of Branco, United States Patent No. 5,735,608, as applied to claim 1, and further in view of Eaton et al., United States Design Patent No. Des. 375,626 (Eaton). It would have been obvious to provide Friedler's ball carrier with an exterior pocket, as taught by Eaton in Figures 3 and 4, because a pocket would have been a convenient place to keep keys or other personal items while playing ball.

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11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler, United States Patent No. 5,839,577 in view of Branco, United States Patent No. 5,735,608, and Eaton et al., United States Design Patent No. Des. 375,626 (Eaton). Furthermore, it would have been obvious to close the pocket by means of a zipper because zipper closures are old and well-known.

12. Claims 7, 9, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler, United States Patent No. 5,839,577 in view of Branco, United States Patent No. 5,735,608, as applied to claim 1, and further in view of Reddy et al., United States Patent No. 5,927,581 (Reddy). It would have been obvious to provide Friedler's ball carrier with an exterior mesh pocket, as taught by Reddy at 30 in Figure 1, because a pocket would have been a convenient place to keep a water bottle while playing ball. Regarding claim 17, to use elastic mesh would have been obvious because elastic mesh is old and well-known and because it would provide good security for maintaining the bottle in the pocket.

13. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler, United States Patent No. 5,839,577 in view of Branco, United States Patent No. 5,735,608, and Eaton et al., United States Design Patent No. Des. 375,626 (Eaton) as applied to claim 7. Furthermore, it would have been obvious to use any known fastening arrangement to close the pocket.

14. Claims 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler, United States Patent No. 5,839,577 in view of Branco, United States Patent No. 5,735,608 and Reddy et al., United States Patent No.

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5,927,581 (Reddy). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Branco's handle for Friedler's handle because they are equivalents that perform the same function. It would have been further obvious to provide Friedler's ball carrier with an exterior pocket, as taught by Reddy at 30 in Figure 1, because a pocket would have been a convenient place to keep a water bottle while playing ball. The pocket protrudes outwardly, as required.

15. Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 18 and 21. Furthermore, it would have been an obvious duplication of parts to provide two pockets rather than just one.

16. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.

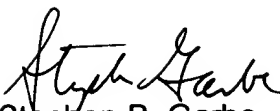
18. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.

19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.

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Stephen P. Garbe  
Primary Examiner  
Group 3720